

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DANIEL ELLIS TAYLOR, #700429

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 4:21cv364

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Kimberly C. Priest Johnson. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such actions, has been presented for consideration. The Magistrate Judge recommended the petition for writ of habeas corpus be dismissed with prejudice as time-barred. Petitioner filed objections. (Dkt. # 16).

Petitioner argues that the Magistrate Judge erred in finding that he is not entitled to equitable tolling due to an extraordinary circumstance. Petitioner contends, his inability to obtain his trial court records constitutes an extraordinary circumstance. Petitioner raised this same argument in his petition. The Magistrate Judge correctly found that a lack of access to state court records does not present an “exceptional circumstance” which would warrant equitable tolling. *Roughley v. Cockrell*, 45 F. App’x 326 (5th Cir. 2002) (rejecting a claim for equitable tolling based on an inmate’s unfulfilled request for state court records).

In all of his objections, Petitioner raises the same argument he raised in his petition. Petitioner provides no information to refute the Magistrate Judge’s finding that he filed his federal habeas petition twenty-five years and nineteen days beyond the AEDPA limitations deadline. None of Petitioner’s

objections contradict the Magistrate Judge's finding that Petitioner filed an untimely habeas petition.

After reviewing the Report and Recommendation and conducting a *de novo* review of Petitioner's objections, the Court concludes the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the Court.

Accordingly, it is **ORDERED** the petition for writ of habeas corpus is **DENIED**, and the case is **DISMISSED** with prejudice. A Certificate of appealability is **DENIED**. It is further **ORDERED** all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 31st day of August, 2021.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE